

**SUMMARY OF PROPOSED FLOOR DRAFT:**

**BILL 28 (2019), CD2  
RELATING TO AFFORDABLE HOUSING INCENTIVES.**

The **PROPOSED FD1** makes the following amendments to the proposed CD2:

- A. In new SECTIONS 2 and 4 to the bill, which would add new sections to ROH Chapter 14, Article 10 ("Wastewater System Facility Charges") and Chapter 18, Article 6 ("Fees"), provides for a new process whereby the developer of an affordable housing project that seeks applicable waivers of fees or charges is required to execute a development agreement with and acceptable to the director of planning and permitting, to be recorded with the State bureau of conveyances or the State Land Court, or both, as appropriate, that encumbers the project site and at a minimum:
- (1) Describes the proposed project;
  - (2) Specifies the percentage of the total project dwelling units to be sold to households earning 120 percent and below of the area median income ("AMI");
  - (3) Specifies the percentage of the total project dwelling units to be sold to households earning 100 percent and below of the AMI;
  - (4) Includes as an attachment a schedule of all units and proposed pricing.
- Reformats the new ROH sections into subsections and subdivisions, and underscores the new ROH sections.
- B. Makes miscellaneous technical and nonsubstantive amendments.



## A BILL FOR AN ORDINANCE

RELATING TO AFFORDABLE HOUSING INCENTIVES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the affordable housing incentives enacted by Ordinance 18-1, as amended by Ordinance 19-8.

SECTION 2. Chapter 14, Article 10, Revised Ordinances of Honolulu 1990 ("Wastewater System Facility Charges"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

**"Sec. 14-10. Development agreement required for projects seeking waivers of charges for affordable housing."**

(a) The developer of an affordable housing project, as defined by the department of planning and permitting by rule, requesting waivers of wastewater system facility charges for affordable dwelling units pursuant to Section 14-10. (a)(5), shall execute a development agreement with and acceptable to the director of planning and permitting, to be recorded with the State of Hawaii bureau of conveyances or the office of the assistant registrar of the land court of the State of Hawaii, or both, as appropriate, that encumbers the project site and at a minimum:

- (1) Describes the proposed project;
- (2) Specifies the percentage of the total project dwelling units to be sold to households earning 120 percent and below of the AMI;
- (3) Specifies the percentage of the total project dwelling units to be sold to households earning 100 percent and below of the AMI; and
- (4) Includes as an attachment a schedule of all units and proposed pricing.

For the purposes of this section, "AMI" means the current area median income determined by the United States Department of Housing and Urban Development annually for the Honolulu Metropolitan Statistical Area, as adjusted for household size.

(b) Prior to the developer being issued a certificate of occupancy for the affordable housing project, the developer shall submit to the department of planning and



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permitting a schedule of all housing units in the project, including actual sales price, buyer income group, and percentage of affordable housing units in the project sold to households earning (i) 120 percent and below and (ii) 100 percent and below of the AMI.

- (c) If the director of planning and permitting determines at any time that the developer is in violation of the development agreement, the violator will be subject to the administrative enforcement provisions of Section 21-2.150-2; provided that in addition to the civil fines specified in Section 21-2.150-2(b)(1)(C) and Section 21-2.150-2(b)(1)(D), the violator will be subject to penalties equal to the amount of wastewater system facility charges waived for the proportion of affordable units sold to households earning 100 percent and below of the AMI."

SECTION 3. Section 14-10.\_\_\_\_, Revised Ordinances of Honolulu 1990, ("Waiver of wastewater system facility charges for affordable dwelling units"), as enacted in SECTION 4 of Ordinance 18-1 and amended by SECTION 3 of Ordinance 19-8, is amended by amending subsection (a) to read as follows:

- "(a) Wastewater system facility charges, as set forth in Appendix 14-D of this chapter will be waived for the following:
- (1) Affordable dwelling units as defined in and as provided on-site or off-site pursuant to Chapter A;
  - (2) Affordable dwelling units provided pursuant to a planned development-transit permit pursuant to Section 21-9.100-10, or an interim planned development-transit permit pursuant to Section 21-9.100-5;
  - (3) Affordable rental dwelling units developed in compliance with HRS Section 201 H-36(a)(5); [ø¶]



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- (4) Affordable rental housing units that are rented to households earning 100 percent and below of the AMI, and rented at or below the rental rate limits established by the United States Department of Housing and Urban Development for households earning 100 percent of the AMI for the applicable household size or less, pursuant to Chapter B[-]; or
- (5) The residential portion of the dwelling units that are sold to households earning 100 percent and below of the AMI in developments for which at least 75 percent of the total number of dwelling units in the development are sold to households earning 120 percent and below of the AMI."

SECTION 4. Chapter 18, Article 6, Revised Ordinances of Honolulu 1990 ("Fees"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

**"Sec. 18-6.           Development agreement required for projects seeking waivers of fees for affordable housing.**

- (a) The developer of an affordable housing project, as defined by the department of planning and permitting by rule, requesting waivers of plan review and building permit fees for affordable dwelling units pursuant to Section 18-6.5(g)(3), shall execute a development agreement with and acceptable to the director of planning and permitting, to be recorded with the State of Hawaii bureau of conveyances or the office of the assistant registrar of the land court of the State of Hawaii, or both, as appropriate, that encumbers the project site and at a minimum:
  - (1) Describes the proposed project;
  - (2) Specifies the percentage of the total project dwelling units to be sold to households earning 120 percent and below of the AMI;
  - (3) Specifies the percentage of the total project dwelling units to be sold to households earning 100 percent and below of the AMI; and
  - (4) Includes as an attachment a schedule of all units and proposed pricing.

For the purposes of this section, "AMI" means the current area median income determined by the United States Department of Housing and Urban Development



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annually for the Honolulu Metropolitan Statistical Area, as adjusted for household size.

- (b) Prior to the developer being issued a certificate of occupancy for the affordable housing project, the developer shall submit to the department of planning and permitting a schedule of all housing units in the project, including actual sales price, buyer income group, and percentage of affordable housing units in the project sold to households earning (i) 120 percent and below and (ii) 100 percent and below of the AMI.
- (c) If the director of planning and permitting determines at any time that the developer is in violation of the development agreement, the violator will be subject to the administrative enforcement provisions of Section 21-2.150-2; provided that in addition to the civil fines specified in Section 21-2.150-2(b)(1)(C) and Section 21-2.150-2(b)(1)(D), the violator will be subject to penalties equal to the amount of plan review and building permit fees waived for the proportion of affordable units sold to households earning 100 percent and below of the AMI."

SECTION 5. Section 18-6.5, Revised Ordinances of Honolulu 1990, ("Exemptions"), as enacted in SECTION 4 of Ordinance 18-1, is amended by amending subsection (g) to read as follows:

- "(g) The building official shall waive the collection of the plan review and building permit fees for the residential portion of a project equal to:
- (1) The percentage of affordable dwelling units as defined in and as provided within the project pursuant to Chapter ~~[ ]~~ A; ~~[or]~~
  - (2) The percentage of affordable dwelling units provided pursuant to a planned development–transit permit pursuant to Section 21-9.100-10, or an interim planned development–transit permit pursuant to Section 21-9.100-5~~[.];~~ or
  - (3) The percentage of affordable dwelling units sold to households earning 100 percent and below of the AMI; provided that at least 75 percent of the dwelling units in the project are sold to households earning 120 and below of the AMI."



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SECTION 6. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring. In SECTIONS 3 and 5 of this ordinance, the Revisor of Ordinances shall, pursuant to the Revisor's authority under ROH Section 1-16.3(b):

- (1) Replace references to "Chapter A" with the appropriately designated chapter enacted by Ordinance 18-10;
- (2) Replace references to "Chapter B" with the appropriately designated chapter enacted by Ordinance 19-8; and
- (3) Replace references to "Section 8-10.Y" with the appropriately designated section enacted by SECTION 3 of Ordinance 18-1.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL **28 (2019), CD2, FD1**

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SECTION 7. Effective date; repeal.

This ordinance takes effect upon its approval and will be repealed one year after its effective date, provided that the amendments made by this ordinance and the repeal thereof do not affect the respective repeal dates of Ordinances 18-1 and 19-8.

INTRODUCED BY:

Ann Kobayashi

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DATE OF INTRODUCTION:

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May 29, 2019

Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu